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on Government Efficiency, Financial  
Management and Intergovernmental  
Relations, Committee on Government  
Reform, House of Representatives

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February 2002

# DEBT COLLECTION IMPROVEMENT ACT OF 1996

## Status of Selected Agencies' Implementation of Administrative Wage Garnishment



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<b>Abstract</b> On October 10, 2001, we testified before your subcommittee on selected federal agencies implementation of the Debt Collection Improvement Act (DCIA) of 1996.1 That law established a framework for improved federal debt collection governmentwide using various debt collection tools. One of these tools is administrative wage garnishment (AWG), which DCIA authorizes, but does not require, agencies to use. This report provides more detailed information on the extent to which nine large Chief Financial Officers (CFO) Act agencies use or plan to use AWG to collect delinquent nontax federal debt and our perspective on additional efforts that are needed to make AWG a more effectively and commonly used debt collection tool.2		
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**Abbreviations**

AWG	administrative wage garnishment
CFO	Chief Financial Officers
DCIA	Debt Collection Improvement Act
DOE	Department of Energy
EPA	Environmental Protection Agency
FMS	Financial Management Service
HHS	Health and Human Services
HUD	Housing and Urban Development
PCA	private collection agency
SBA	Small Business Administration
SSA	Social Security Administration
USDA	U.S. Department of Agriculture
VA	Veterans Affairs



United States General Accounting Office  
Washington, D.C. 20548

February 28, 2002

The Honorable Stephen Horn  
Chairman  
Subcommittee on Government Efficiency,  
Financial Management and Intergovernmental Relations  
Committee on Government Reform  
House of Representatives

Dear Mr. Chairman:

On October 10, 2001, we testified before your subcommittee on selected federal agencies' implementation of the Debt Collection Improvement Act (DCIA) of 1996.<sup>1</sup> That law established a framework for improved federal debt collection governmentwide using various debt collection tools. One of these tools is administrative wage garnishment (AWG), which DCIA authorizes, but does not require, agencies to use. This report provides more detailed information on the extent to which nine large Chief Financial Officers (CFO) Act agencies use or plan to use AWG to collect delinquent nontax federal debt and our perspective on additional efforts that are needed to make AWG a more effectively and commonly used debt collection tool.<sup>2</sup>

In 1995, prior to the enactment of DCIA, debt collection experts testified before your subcommittee that AWG can be an extremely powerful debt collection tool, as the mere threat of its use is often enough to motivate people to pay their delinquent debts. This is significant given the large size of the U.S. labor force and the reported \$58 billion of delinquent debt held by federal agencies as of September 30, 2000, the date for which the

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<sup>1</sup>U.S. General Accounting Office, *Debt Collection Improvement Act of 1996: Agencies Face Challenges Implementing Certain Key Provisions*, GAO-02-61T (Washington, D.C.: Oct. 10, 2001).

<sup>2</sup>The nine CFO Act agencies we included in our review are the departments of Agriculture (USDA), Education, Energy (DOE), Health and Human Services (HHS), Housing and Urban Development (HUD), and Veterans Affairs (VA); the Environmental Protection Agency (EPA); the Small Business Administration (SBA); and the Social Security Administration (SSA).

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most recent agency-certified data were available at the completion of our fieldwork.<sup>3</sup>

AWG as authorized by DCIA, unlike court-ordered wage garnishment, does not require that agencies obtain a court judgment to initiate garnishment. Instead, AWG is an administrative process that requires that debtors be notified of the government's intent to have their employer withhold specified amounts from their wages, requires that debtors be given an opportunity to either pay their debt in full or enter into a repayment agreement under terms acceptable to the agency that holds the debt, and gives debtors the right to request a hearing. If the delinquent debtor does not either pay the debt in full, enter into a repayment agreement, or request a hearing, the agency may proceed to issue an order requiring the debtor's employer to withhold up to 15 percent of the debtor's disposable pay and transmit those moneys to the agency.<sup>4</sup>

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## Results in Brief

As we testified, none of the nine large CFO Act agencies covered by our review had yet implemented AWG as authorized by DCIA. Although AWG is not mandatory, by failing to employ this tool—more than 5 years after DCIA's enactment and more than 3 years after the Department of the Treasury issued implementing regulations—agencies have missed an opportunity to maximize collection of delinquent debt. In AWG, the Congress gave agencies a powerful instrument for collecting debt or leveraging payment from delinquent debtors who are not currently making payments under an agreement with the agency. In the federal government, Education has effectively used wage garnishment authority similar to DCIA's since 1993 under student loan program legislation to dramatically increase collections on delinquent student loans.<sup>5</sup>

Agencies identified various reasons for either not yet implementing AWG or for deciding not to do so, including the need to focus their resources on implementing the mandatory provisions of DCIA. While some agencies or

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<sup>3</sup>In this report, "delinquent debt" refers to delinquent nontax debt.

<sup>4</sup>Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld.

<sup>5</sup>Education has used wage garnishment since 1993 under authority granted by section 488A of the Higher Education Act of 1965, as amended, 20 U.S.C. 1095a.

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programs may have valid reasons for not implementing wage garnishment (such as dealing mostly with commercial debt, to which AWG has limited applicability), we believe that all of the larger programs that deal with individuals and that have a demonstrated risk of financial loss resulting from unpaid debt should have AWG as a viable debt collection option.<sup>6</sup> Although none of the nine CFO Act agencies we surveyed were using AWG as authorized by DCIA, all but one agency indicated that they intend to do so. The debts held by the one agency are primarily of a commercial nature. The eight remaining agencies said they plan to implement AWG by the end of fiscal year 2003. Four agencies said they intend to implement AWG in-house and, to varying degrees, through Treasury's Financial Management Service (FMS) cross-servicing program, and four agencies said they intend to rely primarily on FMS to perform AWG as part of cross-servicing.

Reliance on FMS to perform AWG as part of cross-servicing might be prudent for some agencies, provided the collection tool is used as early as practicable to maximize its collection potential. As we testified in June 2000, however, agencies with substantial delinquent debt eligible for referral to FMS for cross-servicing failed to promptly refer much of that debt in the past.<sup>7</sup> Further, DCIA does not require that agencies refer debts to FMS for cross-servicing until they are more than 180 days delinquent, and FMS, which views wage garnishment as a tool of last resort, does not contemplate initiating AWG in most cases until the debt has been with FMS for at least 90 days. FMS's own data show that as of September 30, 2001, more than 50 percent of debt referred for cross-servicing governmentwide was more than 2 years delinquent at the time of referral. As a result, FMS's use of AWG could be significantly limited and delayed.

At the completion of our fieldwork, none of the eight surveyed agencies that indicated that they planned to use AWG had a comprehensive written implementation plan to help ensure that they would implement AWG in a timely and effective manner. In addition, the eight agencies were developing the regulations needed to implement AWG, but none had

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<sup>6</sup>Consumer debt typically consists of debts by individuals and is likely to be subject to AWG because the debtor is often an individual who is employed. However, certain commercial debts could involve individual debtors, guarantors, or co-debtors, and AWG may be applicable to such debtors.

<sup>7</sup>U.S. General Accounting Office, *Debt Collection: Treasury Faces Challenges in Implementing Its Cross-Servicing Initiative*, GAO/T-AIMD-00-213 (Washington, D.C.: June 8, 2000).



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finalized them. Consequently, it is difficult to determine when these agencies will be able to take full advantage of the debt collection potential of AWG.

AWG is an important tool that properly used in tandem with other debt recovery techniques should generate collections and provide leverage for agencies to obtain payments from delinquent debtors. Accordingly, we are making a number of recommendations to expedite implementation of AWG as a routine collection activity to be used in conjunction with other debt collection tools by surveyed agencies whose operations would make its use cost-effective.

Of the 10 agencies covered by and commenting on a draft of this report, FMS was the only agency to explicitly disagree with any of our recommendations. Specifically, FMS disagreed with our recommendation concerning FMS's timing and philosophy in applying AWG and maintains its position of using AWG as a collection tool of last resort. Given the age of much of the debt referred to FMS for cross-servicing and the fact that referring agencies would previously have attempted to collect from these debtors, we continue to believe that FMS or its private collection agency (PCA) contractors should immediately notify debtors of the intent to use AWG if the debtors are not cooperative in paying or making arrangements to pay.

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## Background

Over the past several years, the federal government has reported an outstanding balance of delinquent debt in the range of \$50 billion to \$60 billion. DCIA reflected the Congress' recognition that timely and effective agency debt collection efforts were needed to maximize collections of delinquent debts owed to the federal government. A central theme of the legislation is that before discharging any delinquent debt owed to any executive, judicial, or legislative agency, agencies should take all appropriate steps to collect the debt. Among the collection tools the act authorized were administrative offset (withholding some or all of a federal payment scheduled to be issued to the debtor), federal salary offset, referral to PCA contractors, referral to agencies operating a debt collection center, reporting delinquencies to credit reporting bureaus, and administratively garnishing the wages of delinquent debtors.

Some DCIA-authorized debt collection tools are mandatory, while others are discretionary. AWG, one of the discretionary tools, is a process whereby an employer withholds amounts from an employee's wages and

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pays those amounts to the employee's creditor in satisfaction of a withholding order.<sup>8</sup> Prior to the enactment of DCIA, agencies generally were required to obtain a court order before garnishing the wages of nonfederal employees. DCIA authorizes agencies to administratively garnish up to 15 percent of a debtor's disposable pay to satisfy delinquent nontax debt owed to the United States. Under a separate statute, Education has had authority since 1993 to garnish up to 10 percent of the disposable pay of debtors who have defaulted on student loans.

Treasury's FMS is responsible for promulgating regulations to implement AWG and other debt collection tools authorized by DCIA. In May 1998, 2 years after the act was passed, Treasury issued final regulations that provide agencies with an overall framework for implementing AWG. The regulations authorize agencies to begin the AWG process as debt becomes delinquent, but they do not stipulate when in the collection cycle this tool may be used. According to the regulations, any federal agency that administers a program that might result in a delinquent nontax debt owed to the federal government and any agency that pursues recovery of such debt may administer AWG. Therefore, agencies holding delinquent debt may administer AWG in-house; they may authorize a debt collection agency, such as FMS, to administer AWG on their behalf as part of cross-servicing operations; or they may do both. To assist agencies in implementing AWG, Treasury issued AWG Form 329, known as the AWG package, in November 1998. The package includes a Letter to Employer & Important Notice to Employer, Wage Garnishment Order, Wage Garnishment Worksheet, and Employer Certification. In February 1999, FMS issued "Instructions to Federal Agencies for Preparing AWG Forms."

As is the case with other debt collection tools, Treasury's regulations dealing with AWG provide for due process for debtors. The regulations require that at least 30 days before initiating wage garnishment proceedings, agencies notify delinquent debtors in writing of the nature and amount of the debt and of the agency's intention to collect through deductions from pay. The notification must also include an explanation of the debtor's rights regarding the proposed action. These rights include the opportunity to inspect and copy agency records related to the debt, to enter

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<sup>8</sup>Wage garnishment does not include the collection of delinquent nontax debt owed to the federal government from the wages of federal employees from their federal employment. Federal pay is subject to the federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

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into a written repayment agreement with the agency, and to request a hearing concerning the existence or amount of the debt or the terms of the proposed repayment schedule under the garnishment order.

An agency must provide a debtor with a hearing before it issues a garnishment order if the agency receives the debtor's written request for a hearing on or before the 15th business day following the mailing of the notice. If a debtor does not make a timely request for a hearing, the agency is to send a withholding order to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing. If the agency receives a debtor's written request for a hearing after the 15th business day following the mailing of the notice, the agency must still provide a hearing to the debtor. In such a case, however, the agency is not to delay issuing a withholding order unless it determines that the delay in filing the hearing request resulted from factors over which the debtor had no control or receives information that it believes justifies delaying or canceling the withholding order.

Following receipt of a withholding order, employers are required to certify to the agency certain information about the debtor, such as the debtor's employment status and disposable pay available for withholding. The employer must deduct from all disposable pay paid to the debtor during each pay period the amount of the garnishment, which is the lesser of (1) the amount indicated on the garnishment order, up to 15 percent of the debtor's disposable pay, or (2) the amount by which the debtor's disposable pay exceeds an amount equivalent to 30 times the minimum wage.<sup>9</sup> If multiple garnishments from various sources are applied to one debtor's wages, the total garnishments may not exceed 25 percent of the individual's disposable pay.<sup>10</sup>

Once the agency has fully recovered the amounts owed by the debtor, the agency is to send the debtor's employer notification to discontinue wage withholding. Agencies are to review their debtors' accounts at least annually to ensure that garnishment has been terminated for accounts that have been paid in full.

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<sup>9</sup>At the completion of our fieldwork, the federal minimum wage was \$5.15 per hour.

<sup>10</sup>Withholding orders for child support have priority over AWG for delinquent nontax federal debt.

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## Objective, Scope, and Methodology

The objective of our review was to determine the extent to which certain CFO Act agencies use or plan to use AWG as authorized by DCIA to collect delinquent nontax federal debts.

As previously noted, we surveyed nine federal agencies: USDA, Education, DOE, HHS, HUD, VA, EPA, SBA, and SSA. Together, these agencies held about \$40 billion of delinquent nontax federal debt as of September 30, 2000, which represented more than 90 percent of all CFO Act agencies' reported delinquent nontax debt as of that date.

We developed a survey instrument to obtain agency responses to a uniform set of questions (see appendix I) and received completed surveys from all nine surveyed agencies. We reviewed agency responses and followed up with cognizant agency officials, where necessary, to obtain any needed clarifications or additional information. Although we discussed certain of the survey responses with agency officials by telephone or electronic mail, we did not independently verify the reliability of all the information that agencies provided. We also conducted interviews with FMS officials responsible for regulations, guidance, and cross-servicing operations related to AWG and reviewed pertinent documents, including FMS's "AWG Operations & Procedures Manual" and its "Performance Summary Report."

We performed our work from March 2001 through September 2001 in accordance with U.S. generally accepted government auditing standards. We requested written comments on a draft of this report from the 10 agencies covered by the report. All 10 agencies responded to our request and provided either written or oral comments, which are discussed in the "Agency Comments and Our Evaluation" section of this report and are incorporated in the report as applicable. Letters with comments from FMS, Education, HHS, HUD, SBA, SSA, and VA are reprinted and discussed in further detail, when applicable, in the appendixes.

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## Status of Surveyed Agencies' Use of AWG

The nine large CFO Act agencies we surveyed had not used AWG as authorized under DCIA, thus undoubtedly losing some collection opportunities. Together, the surveyed agencies reported holding about

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\$23 billion in consumer delinquent debt as of September 30, 2000.<sup>11</sup> This is not to imply that AWG could be used to collect all such debt because circumstances such as bankruptcy or appeals could limit the application of this debt collection tool. Eight of the nine surveyed agencies said that they planned to adopt AWG as authorized by DCIA. Four agencies expected to implement AWG in-house and, to varying degrees, through FMS's cross-servicing program. One of these agencies, Education, has been using AWG in-house under separate statutory authority since 1993. The four remaining agencies indicated that they would not perform AWG in-house but would authorize FMS to apply AWG to debts they referred to FMS for cross-servicing. However, we found in previous work that agencies have not been promptly referring all eligible debts to FMS when they become 180 days delinquent, as required by DCIA. Prompt referral of eligible debts is especially important for agencies that contemplate relying primarily on FMS to conduct AWG through cross-servicing because FMS intends to apply AWG as a tool of last resort, to be used only after all other collection efforts have been exhausted.

Use of AWG, whether in-house or at FMS, should likely yield a marked increase in agency collections of consumer delinquent debt. The increase would result largely from AWG's effectiveness as leverage to obtain payment in full, to secure a repayment plan, or to obtain full payment on a compromised amount. According to testimony by debt collection experts, the mere threat of AWG is often enough to motivate repayment. These experts based their testimony on experience at Education, which indicated that employees did not want their employers to find out that they had defaulted on their student loans. As a result, according to the debt collection experts, about 50 percent of the debtors notified of Education's intent to use AWG made payment arrangements instead of allowing their wages to be garnished.

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<sup>11</sup>The remainder of the \$40 billion of delinquent debt the agencies reported holding as of September 30, 2000, was commercial debt. In addition to the \$40 billion of reported delinquent debt, the nine agencies held more than \$25 billion in debts classified as currently not collectible, which were not broken out by consumer and commercial debts on the agencies' Treasury Report on Receivables. Although currently not collectible debts are written off by the agencies for accounting purposes, AWG could be applicable to significant amounts of such debts.

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**Education's Use of Wage Garnishment under Separate Authority Has Increased Debt Collections**

According to Education officials and agency documents, collection of defaulted student loans has increased dramatically since Education implemented AWG in 1993 under the Higher Education Act, as amended. Education indicated that it had collected more than \$306 million in principal and interest on defaulted student loans from fiscal year 1997 through March 2001 using 10 percent garnishment authority. The primary difference between AWG under DCIA and wage garnishment under the Higher Education Act is that the Higher Education Act allows up to 10 percent of disposable pay to be garnished, while DCIA allows up to 15 percent of disposable pay to be garnished.

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**Most Surveyed Agencies Plan to Use AWG**

Eight of the nine surveyed agencies said they plan to implement AWG under DCIA authority. EPA, the ninth agency, determined that use of AWG would not be cost-effective because of its limited applicability to the agency's debts.<sup>12</sup> According to agencies' survey responses and other agency correspondence, all eight agencies expect to implement AWG by the end of fiscal year 2003, as shown in table 1. Agencies gave various reasons for the delay in implementing AWG, including their need to focus priorities on the mandatory provisions of DCIA, to develop the required AWG regulations, and to complete the systems changes necessary to implement AWG.

As shown in table 1, four agencies we surveyed (USDA, DOE, HUD, and VA) indicated that they plan to rely primarily on FMS to perform AWG as part of cross-servicing. DOE said that given due process requirements and efficiencies of processing debts, the agency prefers that FMS perform AWG. HUD indicated that it uses FMS's cross-servicing program as its main "active" collection tool. VA indicated that it views AWG as a collection tool of last resort and stated that it would concentrate on its own established methods of collection, such as internal offset and referral of debts to the Treasury Offset Program. Although USDA stated that it plans to rely primarily on FMS to perform AWG, the agency did not comment on why it preferred this course of action. In addition, four of the surveyed agencies (Education, HHS, SBA, and SSA) plan to implement AWG in-house and, to varying degrees, through FMS's cross-servicing program. The use of AWG

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<sup>12</sup>Most of EPA's debts are commercial debts issued under the Superfund program, which provides federal clean-up authority and funds to address problems posed by abandoned or uncontrolled hazardous waste sites.

in conjunction with other debt collection tools, whether performed in-house or at FMS, can provide leverage to obtain payments from delinquent debtors.

**Table 1: Surveyed Agencies Plans for Implementing AWG under DCIA Authority**

Agency	Will agency implement AWG?		Agency will implement		Expected implementation date
	Yes	No	In-house	Through FMS	
USDA	✓			✓	Fiscal year 2002
Education	✓		✓	✓ <sup>a</sup>	Fiscal year 2002
DOE	✓			✓	After April 2002
HHS	✓		✓	✓ <sup>b</sup>	Fiscal year 2002
HUD	✓			✓	Fiscal year 2002
VA	✓			✓	Fiscal year 2002
EPA		✓			
SBA	✓		✓	✓ <sup>c</sup>	After March 2002
SSA	✓		✓	✓ <sup>c</sup>	Fiscal year 2003

<sup>a</sup>Education stated that it would rely on FMS to perform AWG only for nonstudent loan debts, which represent less than one-half of 1 percent of Education's reported eligible delinquent debt.

<sup>b</sup>HHS stated that it would authorize FMS to perform AWG for certain debts referred for cross-servicing.

<sup>c</sup>SBA and SSA stated that FMS would perform AWG for debts that are referred for cross-servicing.

Source: Agency responses to GAO survey and other agency correspondence.

## FMS's Use of AWG Could Be Limited

Depending on the nature of an agency's delinquent debt, relying on FMS to apply AWG as part of cross-servicing may be the best approach. FMS's incorporation of AWG into the cross-servicing program would undoubtedly improve its collection success and make its cross-servicing collection efforts more comprehensive. However, relying primarily on FMS to perform AWG has definite limitations. First, not all delinquent debt reported by agencies as eligible for cross-servicing has been promptly referred to FMS in the past, and debt that has been referred has often been well beyond DCIA's 180-day delinquency threshold. Second, under FMS's cross-servicing program, AWG is considered to be a collection means of last resort and will therefore be used far into the debt collection process. To maximize the debt collection potential of AWG for debts referred to

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FMS for cross-servicing, agencies should send eligible debts to FMS promptly—even, when practicable, prior to the 180-day delinquency threshold.<sup>13</sup> As we stated in our October 2001 testimony, debt collection experts have testified that AWG can be an extremely powerful debt collection tool, as the mere threat of AWG is often enough to motivate debtor repayment.<sup>14</sup>

Although debt referred for cross-servicing was not reported to Treasury on the Report on Receivables separately by consumer and commercial debt, the four surveyed agencies that plan to rely primarily on FMS for AWG implementation (USDA, DOE, HUD, VA) together reported having referred only \$288 million of about \$690 million of all types of debt that they reported as eligible for cross-servicing as of September 30, 2000.<sup>15</sup> For example, as discussed in our October 2001 testimony, the USDA agencies we reviewed (the Rural Housing Service and the Farm Service Agency) had not identified and promptly sent debts to FMS for cross-servicing. Consequently, if AWG had been attempted only on delinquent debts reported as referred for cross-servicing, substantial amounts of delinquent debt would not have been subject to this debt collection tool.

Because FMS views AWG as a collection tool of last resort, it is critical that agencies relying on FMS to implement AWG refer debts promptly to FMS for cross-servicing, even, when practicable, before they reach the 180-day delinquency threshold. According to the “AWG Operations & Procedures Manual” developed by FMS for its PCA contractors, AWG is a tool to be used after all other collection efforts have been exhausted. FMS has taken the position that AWG should generally be the collection tool of last resort because AWG will only allow the government to receive up to 15 percent of a person's disposable wages as long as the person is employed.

The collection procedures FMS has provided to PCA contractors require that they attempt first, to collect the entire debt by having the debtor pay the debt in full with one payment; second, to establish an acceptable

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<sup>13</sup>Federal agencies may, at their discretion, refer valid, legally enforceable debts for cross-servicing that are less than 180 days delinquent; however, it may not be feasible for certain agencies to do so.

<sup>14</sup>GAO-02-61T.

<sup>15</sup>According to FMS's Performance Summary Report for September 2001, only 74 percent of debt reported by agencies as eligible for cross-servicing governmentwide had been referred to FMS.



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payment plan that pays the debt in full; third, to establish an acceptable one-time compromise agreement; and fourth, to establish a compromise agreement that is paid off in 6 months. The “AWG Operations & Procedures Manual” does not incorporate the use of AWG in conjunction with other debt collection tools as leverage to obtain payment in full, a repayment plan, or a more favorable compromise amount and payment schedule.

The potential leverage of AWG and related collections may be delayed if agencies do not refer debts to FMS as soon as possible. Based on FMS’s established procedures for cross-servicing, debts agencies refer to FMS would typically age at least another 90 days before issuance of the AWG notice to the debtor and 120 days before issuance of the garnishment order to the employer. FMS first attempts to collect referred debts for 30 days at its governmentwide debt collection center before referring the debt to a PCA. Assuming that FMS’s cross-servicing activities operate in a manner consistent with the schedule in its manual, after referral, debts would generally remain with the PCA to be pursued using other collection tools for another 60 days before the agency could request FMS’s approval to mail the AWG notice. Debts would age another 30 days before the AWG package could be sent to the debtor’s employer.

The four surveyed agencies that said they would rely primarily on FMS to implement AWG (USDA, DOE, HUD, VA) do not forward debts to FMS for cross-servicing until they are at least 61 days delinquent. Some debts are more than 180 days delinquent when they are sent to FMS. In response to our survey, USDA and DOE indicated that the delinquency timeframe for referring debts to FMS varies by field office. For DOE, debts range from 61 to 180 days delinquent at the time of referral to FMS. USDA did not provide the range of delinquency for debts referred to FMS. HUD indicated that it currently refers debts to FMS for cross-servicing when they are from 121 to 180 days delinquent. VA indicated that it refers debts to FMS when they are more than 180 days delinquent. Since PCAs will typically use AWG as a debt collection tool of last resort under FMS’s cross-servicing program, debts of agencies that rely primarily on FMS to implement AWG will be, at a minimum, more than 150 days delinquent (i.e., 61 days at referral plus 30 days at FMS plus 60 days at the PCA) before the notice is sent to the debtor. These debts will be more than 180 days delinquent (because an additional 30 days will transpire after the notice is mailed to the debtor) before wage garnishment begins. If the debtor requests a hearing within the required time frame, wage garnishment could be delayed as much as 60 additional days pending a hearing decision.

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It is important to note that, regardless of what the surveyed agencies told us about when they are referring debts to FMS for cross-servicing, DCIA does not require agencies to refer debts to FMS until they are 180 days delinquent. Moreover, as previously mentioned, agencies have not in the past promptly referred all eligible debts that are 180 days delinquent to FMS. According to FMS data, as of September 30, 2001, more than 50 percent of debt referred for cross-servicing governmentwide was more than 2 years delinquent at the time of referral. As we have previously testified, industry statistics have shown that the likelihood of recovering amounts owed on a debt decreases dramatically as the age of the debt increases. Although FMS officials told us that the age of delinquency has no bearing on what can be collected using AWG, this view ignores AWG's potential to motivate debtors to pay their debt in full, to enter into a repayment plan for the full amount, or to agree on a compromised amount. The old adage that "time is money" is very relevant to the application of AWG to delinquent debts. Therefore, whenever possible, eligible debts should be referred promptly to FMS for cross-servicing, even prior to the 180-day delinquency threshold established by DCIA.

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## Surveyed Agencies Lacked Comprehensive Implementation Plans and Regulations

If AWG's potential for boosting collections on delinquent debts is to be realized, agencies must develop clear implementation plans and regulations that are consistent with those issued by Treasury. Agencies must take these steps whether they intend to implement AWG in-house, to rely on FMS to implement AWG, or to do both. At the completion of our fieldwork, however, none of the eight agencies that plan to use AWG had comprehensive written implementation plans. In addition, although all eight agencies were developing regulations to implement AWG, none had finalized their regulations. It is not clear when the eight agencies will be able to take full advantage of the debt collection potential of AWG, either in-house or through FMS. As of the completion of our fieldwork, only two small agencies not included in our review, the Railroad Retirement Board and the James Madison Foundation, had provided FMS the authority to use AWG as part of cross-servicing.

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## Implementation Plans Are Critical for Incorporating AWG as a Collection Tool

Although Treasury regulations do not require that agencies prepare written implementation plans before implementing AWG, we believe that comprehensive written implementation plans are critical for the eight surveyed agencies that intend to use AWG. At a minimum, each agency's implementation plan should specify

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- whether the agency intends to implement AWG in-house, through FMS, or both;
  - the types of debts to which the agency will apply AWG, since AWG may not be a feasible means of collection for all types of debt the agency holds;
  - the tasks involved in implementing AWG and who will have responsibility for carrying out each task; and
  - the process for conducting hearings, regardless of whether AWG is conducted in-house or through FMS.

Three of the agencies had plans, but the plans were deficient. The other five agencies said they did not have written implementation plans.

Three surveyed agencies (HUD, SBA, and SSA) indicated on their surveys that they had a written plan for implementing AWG. The plans they submitted, however, did not clearly describe how and by whom hearings would be conducted or clearly indicate when the agencies could fully implement AWG as a routine debt collection tool. In addition, SBA's and SSA's plans did not specify which types of debts would be subject to AWG. They did not address, for example, which age categories of debts would be subject to AWG and what the minimum debt amount subject to AWG would be. HUD's plan stated that debts related to certain programs that are referred to FMS for cross-servicing would be subject to AWG, but the plan did not make it clear whether AWG would be applicable to all other programs and related debts administered by the agency.

The other five surveyed agencies that plan to implement AWG indicated that they did not have written implementation plans. Three of these agencies (USDA, DOE, and VA) plan to rely primarily on FMS to perform AWG. The other two agencies (Education and HHS) plan to implement AWG in-house and, to varying degrees, through FMS's cross-servicing program. The survey responses and follow-up information do not make it clear whether most of these agencies intend to develop an implementation plan.

USDA stated that it has not prepared a formal AWG implementation plan because of a shortage of resources and the need to address other DCIA priorities. The importance of an AWG implementation plan for USDA was discussed in a hearing before your subcommittee on December 5, 2001. In that hearing, the commissioner of FMS stated that USDA intended to authorize FMS to use AWG as part of the cross-servicing program and needed to develop a plan to take full advantage of this debt collection tool.

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The commissioner emphasized that a significant percentage of USDA's delinquent debt portfolio, such as Food Stamp Program debts, is exempt from cross-servicing by Treasury and therefore would not be subject to FMS's AWG program. DOE indicated that it has not developed a written implementation plan because it has submitted its debt collection regulations to FMS to determine if they adequately cover AWG and will allow FMS to administer AWG functions on DOE's behalf. VA indicated that it will rely on FMS to implement AWG and does not believe that a written implementation plan is necessary. HHS indicated that it plans to implement AWG based on departmental regulations, but the regulations have not yet been published. Although Education did not provide a written implementation plan, agency officials stated that they have prepared a system requirements document that includes steps for making the system changes necessary to administer AWG under DCIA.

Notwithstanding the reasons agencies gave for not yet having written AWG implementation plans, we believe such plans are needed to help ensure that agencies fully incorporate AWG into their debt collection processes in the near future. We recognize that Education may not have as great a need for an implementation plan because the agency has wage garnishment experience under authority separate from DCIA.

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## Regulations Are Required for AWG Implementation

As of the completion of our fieldwork, none of the eight surveyed agencies that plan to use AWG as authorized by DCIA had finalized the regulations needed to implement AWG, but each agency was developing such regulations. Treasury regulations require an agency to prescribe regulations for the conduct of AWG hearings that are consistent with the Treasury regulations. FMS considers the performance of AWG hearings to be a creditor agency function and does not plan to conduct hearings on behalf of such agencies. FMS will refer debts back to creditor agencies to conduct required hearings.

In the responses to our survey and in FMS's discussions with agencies, a major concern agencies raised about AWG was their ability to handle the hearings that debtors may request once they receive an AWG notice. Two of the surveyed agencies (SBA and USDA) indicated that they anticipate obstacles related to the hearings process, including arranging for hearings and developing hearing procedures.

Many agencies have stated to FMS that they do not have the staff to handle AWG hearings. Accordingly, agencies will have to either establish that

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capacity or obtain hearings services on a contract basis through another agency that is willing to provide such services. FMS has informed agencies that if they do not believe they have the staff to handle the hearing requests, other agencies are available to perform hearing activities for a fee. According to a VA official, for example, VA provides hearing services on federal salary offset to other agencies for about \$100 per hearing. VA expects to conduct AWG hearings for its own agency and for other agencies for a similar fee. The best available indication of the frequency of hearing requests is from Education's experience with wage garnishment under student loan legislation. During fiscal year 2000, Education issued 90,658 Notices of Intent for wage garnishment, and approximately 10 percent of the debtors who received a notice requested a hearing.

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## Conclusions

AWG has the potential to be a powerful tool for collecting delinquent federal debts, especially those owed by debtors who are not currently making payments under an agreement with the agency. More than 5 years after the enactment of DCIA, which authorized but did not mandate use of AWG, and more than 3 years after Treasury issued implementing regulations for AWG, however, none of the large CFO Act agencies we surveyed had begun using AWG as authorized by DCIA, either in-house or through FMS. And although eight of the nine agencies we surveyed said they intended to use this debt collection tool, none had adequately completed crucial preliminary steps—preparing detailed implementation plans and developing the necessary implementing regulations.

By failing to implement AWG, agencies have clearly missed opportunities to maximize collection of delinquent debts. Even when agencies do begin implementing AWG, those that rely primarily on FMS may find that the tool's effectiveness—particularly its usefulness in leveraging full or compromise payments from debtors who wish to avoid wage garnishment—is limited because agencies have in the past failed to promptly refer a significant portion of eligible debts to FMS for cross-servicing and because FMS intends to use AWG as a collection tool of last resort, thus allowing debts (that may already be more than 180 days delinquent) to age significantly before sending an AWG notice to the debtor.

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## Recommendations for Executive Action

To help ensure that agencies effectively incorporate AWG into their debt collection processes, we recommend that the secretaries of the Departments of Agriculture, Education, Energy, Health and Human Services, Housing and Urban Development, and Veterans Affairs; and the commissioner of the Social Security Administration direct their chief financial officers and that the administrator of the Small Business Administration direct the associate deputy administrator for capital access to take the following steps:

- Prepare comprehensive written implementation plans that clearly define, at a minimum, the types of debt that will be subject to AWG, the policies and procedures for administering AWG, and the process for conducting hearings. Some of the details that should be considered for inclusion in the plan are (1) whether the agency will conduct AWG in-house, at a debt collection center, or both; (2) the types of debts, if any, that will be sent to FMS prior to becoming 180 days delinquent; and (3) whether hearings will be conducted by the agency or contracted out.
- Complete and finalize regulations for conducting AWG.
- Use AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors.
- Expedite referrals of eligible debts to FMS for cross-servicing when relying on FMS to perform AWG. Agencies should refer such debts prior to the 180-day delinquency threshold when practicable.

We also recommend that the commissioner of FMS modify FMS's "AWG Operations & Procedures Manual" to incorporate the use of AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors.

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## Agency Comments and Our Evaluation

Each of the 10 agencies covered by our report responded to our request for comments. We received a combination of written and oral comments from the 9 agencies we surveyed and written comments from FMS. Letters with comments from FMS, Education, HHS, HUD, SBA, SSA, and VA are reprinted and discussed in further detail, when applicable, in the appendixes. Eight of the 9 agencies we surveyed either stated that they agreed with our report or indirectly indicated some level of agreement by describing their efforts to implement one or more of our recommendations. Several of these provided updates to their responses to our survey document that was in large part the basis for this report. We modified our report to reflect stated changes in how agencies expected to implement

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AWG and any related schedule changes. We also incorporated a number of technical suggestions as appropriate. The 9th agency, EPA, stated that appropriate staff reviewed the report and the agency did not have any comments.

The only explicit disagreement on our recommendations was expressed by FMS. While saying it strongly agreed that agencies relying on FMS to implement AWG should refer debts promptly to FMS for cross-servicing, it disagreed with our recommendation concerning its timing and philosophy in applying AWG. We recommended that FMS modify its “AWG Operations & Procedures Manual” to incorporate the use of AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors. FMS stated that PCA officials cannot threaten an action unless they actually intend to take it and FMS policy requires that AWG only be used when all other attempts at collection have been exhausted. FMS acknowledged that its policy does allow expedited use of AWG in defined circumstances but said it continues to believe that AWG should be used only when all other collection attempts have been unsuccessful and the debtor has been given every opportunity to otherwise resolve the debt.

We did not recommend that FMS threaten debtors with the use of AWG with no intention of using it. Rather, if upon contacting the debtor, FMS could not obtain payment in full or a satisfactory repayment agreement, our view was that FMS or its PCA contractor could immediately initiate AWG. The intent would be to use AWG alone or in conjunction with other debt collection tools to liquidate the debt. Although FMS policy currently prescribes that its PCAs use AWG only after all other collection efforts have been exhausted, neither current law nor regulation contemplates that only one collection tool may be used at a time. In fact, the AWG regulations specifically state that agencies may pursue other debt collection remedies separately or in conjunction with AWG. As stated in our report, viewing AWG only as a collection tool of last resort ignores AWG’s potential to motivate debtors to pay their debt in full, to enter into a repayment plan for the full amount, or to agree on a compromise amount. In our view, deferring the notice of intended use negates a major benefit mentioned by experts on the utility of AWG. Their main point was that invoking the possibility of use could influence those who otherwise might not respond to a request for payment, or to actually pay, to do so because they do not wish employers to become aware that they have delinquent federal debt.

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FMS stated that it allows its PCAs under certain circumstances to initiate the AWG process before the expiration of the 60-day period following receipt of referred debt from other federal agencies. Our recommendation contemplates that such action should be the norm rather than the exception. As mentioned in our report, according to FMS data, more than 50 percent of debt referred for cross-servicing governmentwide as of September 30, 2001, was more than 2 years delinquent at the time of referral. Moreover, agencies are not required to send debts to FMS until they are more than 180 days delinquent. Consequently, FMS in most cases is not the first federal agency to attempt collection from or debt resolution with the debtors because creditor agencies should be attempting to collect their delinquent debts prior to sending them to FMS for cross-servicing. For FMS to wait until it or its PCA contractors have exhausted all collection efforts prior to initiating AWG by notifying the debtor that such action will be taken greatly diminishes AWG's potential to help FMS leverage payment from debtors who are significantly delinquent on their obligations to the federal government and who likely had not cooperated with the referring federal agencies in resolving their debts.

Finally, while there may be differences of opinion on when FMS should initiate AWG in its collection process, HUD in its comments on our report spoke in favor of our recommendation to FMS that FMS should incorporate the use of AWG in conjunction with other debt collection tools rather than consider AWG as a collection tool of "last resort." In developing its own implementation plan for AWG, HUD said that it expected that effective use of AWG would be part of FMS's plan for servicing debt referred for cross-servicing. In that light, HUD said that it would expect that those assigned to cross-service debts would be encouraged to use AWG as a tool to obtain voluntary payment.

This view from HUD aptly summarizes our position and is a key aspect of the reasoning behind our recommendation that FMS use AWG in conjunction with other collection tools and not principally as a last resort. For the reasons offered above, we continue to believe that FMS should modify its "AWG Operations & Procedures Manual" and policy with regard to the use of AWG.

As agreed with your office, unless you announce its contents earlier, we plan no further distribution of this report until 30 days after its issuance date. At that time, we will send copies to the chairmen and ranking minority members of the Senate Committee on Governmental Affairs and the House Committee on Government Reform and to the ranking minority

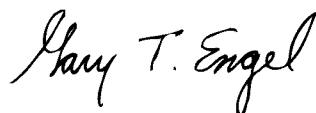


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member of your subcommittee. We will also provide copies to the heads of the agencies we surveyed, the secretary of the treasury, and the commissioner of FMS. We will then make copies available to others upon request.

Please contact me at (202) 512-3406 if you or your staff have any questions on this report. I can also be reached by e-mail at [engelg@gao.gov](mailto:engelg@gao.gov). Key contributors to this assignment were Kenneth R. Rupar, Michael S. LaForge, Linda K. Sanders, and Michael D. Hansen.

Sincerely yours,

A handwritten signature in black ink that reads "Gary T. Engel". The signature is written in a cursive style with a large, stylized 'G' and 'E'.

Gary T. Engel  
Director  
Financial Management and Assurance

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# Survey of Administrative Wage Garnishment



U.S. General Accounting Office

## Survey of Administrative Wage Garnishment (AWG)

### Introduction

The U.S. General Accounting Office has been asked to study the use or planned use of Administrative Wage Garnishment (AWG) to collect delinquent nontax Federal debt. As a part of our study, we are sending this questionnaire to selected agencies and reporting entities within agencies to ask about their experiences with AWG.

Most of the questions in this questionnaire can be answered by circling answers or filling in blanks. Space has been provided at the end of the questionnaire for any additional comments.

Please return the completed questionnaire to:

U.S. General Accounting Office  
Ms. Linda Sanders  
1999 Bryan Street, Suite 2200  
Dallas, TX 75201-6848

Or, you may fax your completed questionnaire to Ms. Linda Sanders at (214) 777-5758.

If you have any questions, please call either Linda Sanders at (214) 777-5655 or Matthew Valenta at (214) 777-5697.

Thank you very much for your assistance.

### Please note the following definition of wage garnishment:

Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a wage garnishment order issued by the creditor. A Federal agency collecting delinquent nontax debt may garnish the wages of a delinquent debtor without first obtaining a court order. This process, known as "administrative wage garnishment (AWG)," is authorized, but not required by the Debt Collection Improvement Act of 1996 (DCIA). For purposes of this questionnaire, AWG does not include Federal salary offset, which is a process whereby Federal agencies offset employee salaries to liquidate their delinquent nontax Federal debts.

### Background

1. What is the name of your reporting entity for the Treasury Report on Receivables (TROR)?

Reporting entity: \_\_\_\_\_

2. Who should GAO contact to inquire about information in this questionnaire?

Name: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

E-mail address: \_\_\_\_\_

3. Does your entity currently use Administrative Wage Garnishment (AWG) as a means of debt collection? (Note: AWG does not include Federal salary offset.) (Circle one.)

1 Yes → **Continue with question 4.**

2 No → **Skip to question 36.**

4. Please cite statutory and/or other authority for using AWG. (Circle all that apply.)

1 Debt Collection Improvement Act of 1996 (DCIA)

2 Other - Cite specific statute: \_\_\_\_\_

5. Does your entity have written policies and procedures for administering AWG? (Circle one.)

1 Yes (Please provide a copy.)

2 No

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6. What is the maximum amount and percent of disposable pay your entity will administratively garnish (without a debtor's written consent to garnish a greater amount)?

\$ \_\_\_\_\_

\_\_\_\_\_ Percent

7. At how many days of delinquency does a debt become eligible for AWG under your agency's process, i.e. attempts are made to identify a debtor's employer? *(Circle one.)*

- 1 1 – 30 days
- 2 31 – 60 days
- 3 61 – 90 days
- 4 91 – 120 days
- 5 121 – 180 days
- 6 Information not available
- 7 Other, please describe \_\_\_\_\_

- 7a. Who is responsible for identifying a debtor's employer so AWG can be initiated? *(Circle all that apply)*

- 1 Your entity
- 2 Treasury's Cross-servicing
- 3 A Private Collection Agency
- 4 Other, please explain \_\_\_\_\_

8. At how many days of delinquency of a debt is a notice of intent to initiate AWG issued to a debtor? *(Circle one.)*

- 1 1 – 30 days
- 2 31 – 60 days
- 3 61 – 90 days
- 4 91 – 120 days
- 5 121 – 180 days
- 6 Information not available
- 7 Other, please describe \_\_\_\_\_

- 8a. Who is responsible for issuing the notice of intent to initiate AWG to a debtor? *(Circle all that apply.)*

- 1 Your entity
- 2 Treasury's cross-servicing
- 3 A Private Collection Agency
- 4 Other, please explain \_\_\_\_\_

9. When did your entity, or someone on behalf of your entity, issue its first notice of intent to initiate AWG to a debtor?

(Year/Month) \_\_\_\_\_ / \_\_\_\_\_

or - Check box if information is not available . . . ☐

**Appendix I**  
**Survey of Administrative Wage Garnishment**

**Request For Information**

Notices Of Intent To Initiate AWG (Enter zero "0" if none. Enter "UK" if unknown.)	Reporting period					
	FY 1999 and earlier		FY 2000		FY 2001 (Quarters 1 & 2)	
	Number	Dollar Amount	Number	Dollar Amount	Number	Dollar Amount
10. How many notices of intent to initiate AWG were sent in each period and what were their total dollar amounts?		\$		\$		\$
11. How many notices of intent to initiate AWG were returned as undeliverable in each period?						

12. Does your entity attempt to contact debtors after a notice of intent to initiate AWG is returned as undeliverable?  
 (Circle one.)

- 1 No (Please explain below)  
 2 Yes (Please describe your procedures below)

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**Appendix I**  
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<b>Hearings</b> <i>(Enter zero "0" if none.  Enter "UK" if unknown.  Enter "NA" if not applicable.)</i>	<b>Reporting period</b> (Numbers of debtors)		
	<b>FY 1999 and earlier</b>	<b>FY 2000</b>	<b>FY 2001 (Quarters 1 &amp; 2)</b>
13. How many debtors requested a hearing regarding AWG in each period?			
14. How many hearings ended in each type of outcome in each period?			
a. Debt substantiated - no change in debt			
b. Debt invalidated - no debt owed			
c. Debt payment schedule established			
d. Debt payment schedule changed			
e. Debt amount owed was revised			
f. Other outcomes <i>(Describe outcome(s) below and enter numbers)</i>			
_____			
_____			
_____			

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**Appendix I**  
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**Employer Notifications**

15. When did your entity, or someone on behalf of your entity, issue its first AWG Form (SF-329), or its equivalent, to an employer? *(AWG Form SF-329 includes the Letter & Important Notice to Employer, Wage Garnishment Order, Wage Garnishment Worksheet, and Employer Certification.)*

\_\_\_\_\_/\_\_\_\_\_  
(Year / Month)

Check box if information is not available . . . ☐

16. At how many days of delinquency of a debt is an AWG Form sent to a debtor's employer?  
*(Circle one.)*

- 1 1 – 30 days
- 2 31 – 60 days
- 3 61 – 90 days
- 4 91 – 120 days
- 5 121 – 180 days
- 6 Information not available
- 7 Other, please describe \_\_\_\_\_

- 16a. Who is responsible for sending the AWG Form to the debtor's employer?  
*(Circle all that apply)*

- 1 Your entity
- 2 Treasury's cross-servicing
- 3 A Private Collection Agency
- 4 Other, please explain \_\_\_\_\_

**Appendix I**  
**Survey of Administrative Wage Garnishment**

Numbers Of Employer Notifications <i>(Enter zero "0" if none. Enter "UK" if unknown. Enter "NA" if not applicable.)</i>	Reporting period					
	FY 1999 and earlier		FY 2000		FY 2001 (Quarters 1 & 2)	
	Number	Dollar Amount	Number	Dollar Amount	Number	Dollar Amount
17. How many AWG Forms were sent to <b>employers</b> during each period and what were their dollar amounts?		\$		\$		\$
18. How many Employer Certification Forms were completed and returned?						
19. How many Employer Certification Forms identified debtors who were currently employed?						
20. How many Employer Certification Forms identified debtors who were no longer employed?						
21. How many Employer Certification Forms were returned within 20 days (i.e. the timeliness requirement)?						
22. How much delinquent debt has your entity collected through AWG?		\$		\$		\$

23. Does your entity take steps to encourage employers to return the completed Employer Certification Forms?  
*(Circle one.)*

- 1 No *(Please explain why not.)*  
2 Yes *(Please describe your procedures.)*

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24. Are you aware of any allegations that a debtor has been discharged from employment, refused employment, or subjected to disciplinary action as a result of AWG being initiated by your agency? *(Circle one.)*

- 1 No  
 2 Yes *(Please describe)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reviews For Financial Hardship <i>(Enter zero "0" if none. Enter "UK" if unknown. Enter "NA" if not applicable.)</i>	Reporting period (Number of reviews)		
	FY 1999 and earlier	FY 2000	FY 2001 (Quarters 1 & 2)
25. How many AWG cases were reviewed for financial hardship in each period?			
26. How many reviews had each of these types of outcomes in each period?			
a. Debt remained unchanged			
b. Debt payments rescheduled			
c. Debt amount reduced			
d. Debt written off			
e. Other outcomes <i>(Describe outcome(s) below and enter numbers)</i>			
_____			
_____			
_____			

27. Who is responsible for monitoring AWG, i.e., ensuring garnished wages are applied to the appropriate debt? *(Check all that apply.)*

- 1 Your entity  
 2 Treasury's cross-servicing  
 3 A Private Collection Agency  
 4 Other, please explain \_\_\_\_\_
- \_\_\_\_\_

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**Appendix I**  
**Survey of Administrative Wage Garnishment**

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28. Has your entity received any complaints from employers about AWG? *(Circle one.)*

- 1 No
- 2 Yes *(Please describe)*

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**Evaluation of AWG**

29. Has your entity performed a cost-benefit study of its AWG program? *(Circle one.)*

- 1 No
- 2 Yes *(Please enclose any report or results.)*

30. Which of the following best describes the cost-benefit relationship of your entity's AWG program? *(Circle one.)*

- 1 Benefits substantially outweigh the costs
- 2 Benefits somewhat outweigh the costs
- 3 Benefits are about equal to the costs
- 4 Costs somewhat outweigh the benefits
- 5 Costs substantially outweigh the benefits
- 6 Not able to judge

31. Please describe the benefits obtained from AWG.

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**Appendix I**  
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32. Please describe the costs or difficulties in implementing or administering AWG.

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33. Comparing your experience with your expectations, which of the following best describes your entity's AWG experience? (*Circle one.*)

- 1 AWG has been **substantially more** successful than expected
- 2 AWG has been **somewhat more** successful than expected
- 3 AWG has been about as successful as expected
- 4 AWG has been **somewhat less** successful than expected
- 5 AWG has been **substantially less** successful than expected
- 6 Not able to judge

33a. Please explain your response. \_\_\_\_\_

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**Appendix I**  
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34. Has your entity produced reports or other information about the following topics that could be sent to GAO?  
(Circle all that apply) (For circled topics, please enclose copies of this information with this questionnaire)

- a The number of debtors who paid off their debt at anytime after receiving an AWG notice and /or having wages garnished
- b The number of debtors who paid off their debt after receiving an AWG notice, but before any wages were garnished.
- c The number of debtors who entered into a repayment agreement after receiving an AWG notice, but before any wages were garnished.
- d The number of debtors who entered into a compromise agreement after receiving an AWG notice, but before any wages were garnished.
- e The number of debtors who left their employment without paying their entire debt after wages were garnished at least once.
- f Your entity's experiences and "lessons learned" in implementing AWG.

35. Do you have any other comments about AWG that we should consider in reporting about your entity's experience with AWG?

- 1 No
- 2 Yes (Please describe)

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**For those entities that currently use AWG, please STOP here.**

**Appendix I**  
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The following questions are for agencies that are **NOT** currently using AWG as a means of debt collection.

36. Has your entity attempted to use AWG in the past as a means of debt collection? *(Circle one.)*

- 1 No → Please explain why your entity has not attempted to use AWG as a means of debt collection.
- 2 Yes → Please explain why your entity no longer uses AWG as a means of debt collection.

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37. Does your entity plan to implement AWG within the next five years? *(Circle one.)*

- 1 Yes *(Continue with question 38.)*
- 2 No *(Skip to question 46.)*
- 3 Not sure *(Skip to question 46.)*

38. Does your entity have a written plan for implementing and/or administering AWG? *(Circle one.)*

- 1 Yes *(Continue)* → If Yes, please provide a copy of your plan.
- 2 No *(Skip to question 40.)*

39. Does this written plan address the following issues? *(Circle one in each row.)*

A timetable for implementing AWG .....	1 Yes	2 No
The types of debt that are planned for collection .....	1 Yes	2 No
The types of debt that are not planned for collection .....	1 Yes	2 No
Who will administer AWG .....	1 Yes	2 No
The policies and procedures for administering AWG ....	1 Yes	2 No
Selection of the hearing official .....	1 Yes	2 No

40. If your entity plans to implement AWG, but has not yet developed a written plan for implementing and/or administering AWG, please discuss in detail the reason(s) for not developing a written plan.

[illegible]

41. Who will be responsible for identifying the debtor's employers, issuing the notice of intent to initiate AWG to debtors, sending the AWG Form to employers, and monitoring garnished wages to ensure they are applied to the appropriate debt? *(Circle all the apply.)*

Identifying debtor's employers	1 Your entity
	2 Treasury's cross servicing
	3 A Private Collection Agency
	4 Other, please explain.

Issuing the notice of intent to initiate AWG to debtors	1	Your entity
	2	Treasury's cross servicing
	3	A Private Collection Agency
	4	Other, please explain.

Sending the AWG Form to employers	1 Your entity		
	2 Treasury's cross servicing		
	3 A Private Collection Agency		
	4 Other, please explain.		

Monitoring garnished wages to ensure they are appropriately applied	1 Your entity
	2 Treasury's cross servicing
	3 A Private Collection Agency
	4 Other, please explain.

41a. If your agency does not plan to garnish wages prior to referral to Treasury's cross-servicing, please explain why.

[illegible]

**Appendix I**  
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42. If your entity plans for Treasury's cross-servicing to administer any aspect of AWG, at how many days of delinquency are debts currently referred to Treasury's cross-servicing? (*Circle one.*)

- 1 1 – 30 days
- 2 31 – 60 days
- 3 61 – 90 days
- 4 91 – 120 days
- 5 121 – 180 days
- 6 Information not available
- 7 Other, please explain

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43. Describe any obstacles your agency anticipates encountering in implementing or using AWG.

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44. Discuss the benefits your agency anticipates achieving from implementing or using AWG.

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45. Please provide any additional comments you may have relating to your plans to implement or use AWG.

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For those entities that plan to use AWG, please STOP here.

46. If your entity does not plan to implement AWG within the next five years or is not sure whether it will, please discuss in detail the reason(s) why your entity does not plan to use or is not sure whether it will use this debt collection tool.

[illegible]

47. Space for additional comments.

16

# Comments from the Financial Management Service

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
WASHINGTON, D.C. 20227

January 23, 2002

Mr. Gary T. Engel, Director  
Financial Management and Assurance  
United States General Accounting Office  
441 G Street, NW Room 5970  
Washington, D.C. 20548

Dear Mr. Engel:

This letter is in response to the draft report (GAO-02-313) entitled "Debt Collection Improvement Act of 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment." I am pleased to comment on the information contained in your draft report. Overall, the report accurately reflects the information provided by the Financial Management Service (FMS), and we strongly agree with GAO's conclusion that it is critical that agencies relying on FMS to implement Administrative Wage Garnishment (AWG) refer debts promptly to FMS for cross-servicing. I would also offer the following comments:

See comment 1.

First, with regard to the recommendation that FMS "modify [its] AWG Operations & Procedures Manual to incorporate the use of AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors," I would note that it is unlawful for a Private Collection Agency (PCA) under contract to us to threaten to take a debt collection action as mere leverage to get a debtor to pay. PCA officials cannot threaten an action unless they actually intend to take it, and FMS policy requires that we move forward with AWG only when we have exhausted all other attempts at collection.

See comment 1.

Nevertheless, our policy is that under certain circumstances a PCA can initiate the AWG process before expiration of the 60-day period following receipt of the debt from FMS, if it has identified the debtor's employer and the debtor's Taxpayer Identification Number (TIN). Once the PCA has located the employer and the debtor's TIN, and has determined that AWG is the best course of action, we encourage the PCA to submit the request for AWG action directly to us. FMS quickly reviews the case to ensure that no other collection action is occurring on the debt prior to the PCA sending an AWG notice letter.

See comment 1.

Regarding our policy on AWG as a collection tool of last resort, while FMS views AWG as a tool with much potential, we continue to believe that it should be used only when all other collection attempts have been unsuccessful and the debtor has been given every opportunity to otherwise resolve the debt.

Page 2 - Mr. Gary T. Engel

Once again, we appreciate that GAO has sought input from FMS regarding this report and hope that our responses will be helpful to you in finalizing the report. If you or your staff have any questions, please have them contact Dean Balamaci on (202) 874-6660.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Gregg". The signature is fluid and cursive, with the first name "Richard" being more prominent.

Richard L. Gregg

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**GAO Comments**

1. See our discussion in the “Agency Comments and Our Evaluation” section.

# Comments from the Department of Education

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

See comment 1.

See comment 2.



UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

January 24, 2002

Mr. Gary T. Engel  
Director  
Financial Management and Assurance  
United States General Accounting Office  
Washington, DC 20548

Dear Mr. Engel:

I am writing in response to your request for comment on the draft GAO report to Congressman Stephen Horn entitled, "DEBT COLLECTION IMPROVEMENT ACT OF 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment." I appreciate this opportunity to provide comments on the draft report.

We believe that the draft report is misleading. It leaves the reader with the impression that no agency is conducting administrative wage garnishment (AWG). While a statement is made at the beginning of the report that "ED has effectively used wage garnishment under authority similar to DCIA since 1993," the remainder of the report consistently ignores this fact. Thus, the draft report depicts ED as having no working administrative wage garnishment process when, in fact, ED is the only agency that has a working process. Further, the draft report does not give a clear synopsis of ED's use of administrative wage garnishment.

During our many discussions with GAO, we explained our difficulty in making the transition from an administrative wage garnishment process that has been working extremely effectively under the Higher Education Act (HEA), as amended in particular by the Emergency Unemployment Compensation Act of 1991. In drafting the new rules and procedures for DCIA-authorized administrative wage garnishment, the Treasury Department created additional requirements that have not allowed ED to smoothly transition to the DCIA process. To implement the DCIA process, we will need to make significant procedural and programmatic changes to our already successful administrative wage garnishment process. The need for these changes is one of the primary reasons for the delay in implementing DCIA-authorized AWG.

The Department is committed to converting to the DCIA-authorized administrative wage garnishment process. We currently have a task in place which, when completed, will allow for garnishment activity to begin at 15 percent. We expect that task to be complete before the end of fiscal year 2002 or no later than the close of the calendar year.

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**Appendix III**  
**Comments from the Department of**  
**Education**

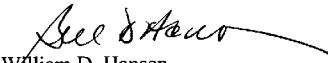
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Page 2 – Mr. Gary T. Engel

I would like to point out that our success in collection using the HEA administrative wage garnishment process on student loan debt, along with our successful use of many of the other collection tools, led to the Congress's adoption of this same garnishment tool for all federal agencies in the DCIA. ED's exemplary record in collecting federal debt, using tools such as AWG, is the primary reason for our "permanent exemption" from the account transfer requirements contained in the DCIA.

In view of the above comments, we are requesting that the draft GAO report be revised to reflect ED's initiative and success with the AWG program before it is submitted to the Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, Committee on Government Reform.

Sincerely,

  
William D. Hansen

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## GAO Comments

1. Education stated that the draft report is misleading and should be revised because it leaves the reader the impression that no agency is conducting AWG and does not give a clear synopsis of Education's use of AWG. We disagree. The primary focus of our work was implementation of AWG as authorized by the DCIA. We accurately stated that none of the nine CFO Act agencies we surveyed were using AWG as authorized by DCIA and all but one agency indicated that they intend to do so. Despite this, we clearly state in this report, as Education noted in its response, that Education has effectively used wage garnishment under authority similar to DCIA's since 1993 to collect delinquent student loans. According to Education, such efforts have dramatically increased collections on delinquent student loans. We made this point at the beginning of our report, as well as in the body of our report and in a separate subsection that is titled "Education's Use of Wage Garnishment under Separate Authority Has Increased Debt Collections."
2. As stated in this report, Education has been using AWG under separate authority, to garnish up to 10 percent of debtors' disposable pay and plans to implement AWG under DCIA authority in fiscal year 2002. While we acknowledge that Education has had to consider the additional requirements to smoothly transition to the DCIA process, other agencies have also had to develop the necessary procedural and programmatic changes for implementing AWG. As such, we stated in this report that the eight agencies we surveyed that are planning to implement AWG under DCIA authority, including Education, gave various reasons for the delay in its implementation, including the need to complete the necessary systems changes.



# Comments from the Social Security Administration

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



**SOCIAL SECURITY**  
Office of the Commissioner  
January 22, 2002

Mr. Gary T. Engel  
Director, Financial Management and Assurance  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Engel:

Thank you for the opportunity to review and comment on the draft report, "Debt Collection Improvement Act of 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment" (GAO-02-313). Our comments on the report are enclosed. If you have any questions, please have your staff contact Laura Bell at (410) 965-2636.

Sincerely,

A handwritten signature in cursive script that reads "Jo Anne B. Barnhart".

Jo Anne B. Barnhart  
Commissioner

Enclosure

SOCIAL SECURITY ADMINISTRATION WASHINGTON D.C. 20254

**COMMENTS OF THE SOCIAL SECURITY ADMINISTRATION ON THE GENERAL  
ACCOUNTING OFFICE DRAFT REPORT, "DEBT COLLECTION IMPROVEMENT  
ACT OF 1996: STATUS OF SELECTED AGENCIES' IMPLEMENTATION OF WAGE  
GARNISHMENT" (GAO-02-313)**

**Recommendation 1**

Prepare comprehensive written implementation plans that clearly define, at a minimum, the types of debt that will be subject to administrative wage garnishment (AWG), the policies and procedures for administering AWG and the process for conducting hearings. Some of the details that should be considered for inclusion in the plan are: 1) Whether the agency will conduct AWG in-house, at a debt collection center or both; 2) the types of debts, if any, that will be sent to Financial Management Services (FMS) prior to becoming 180 days delinquent; and 3) whether hearings will be conducted by the agency or contracted out.

**Comment**

SSA has both a written implementation plan for AWG that addresses the major milestones to be accomplished, as well as a project scope agreement (PSA) (copy attached) that outlines how the process will work. The documents address the specific issues that are raised in items (1) and (2) and have been provided to the GAO auditors. The implementation plan is a working document that contains the elements necessary to finalize the specific policy and procedures including how hearings will be handled. The draft Notice of Proposed Rule Making (NPRM) also addresses the hearings issue.

SSA has established the basic operational and policy parameters under which this process will be developed and implemented. As the developmental process proceeds, a greater level of detail will be defined.

**Recommendation 2**

Complete and finalize regulations for conducting AWG.

**Comment**

The Agency has developed an NPRM for AWG, which is currently being reviewed internally.

**Recommendation 3**

Use AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors.

**Comment**

SSA intends to use AWG in conjunction with all available debt collection tools as described in the PSA.

See comment 1.

2

**Recommendation 4**

Expedite referrals of eligible debts to FMS for cross-servicing when relying on FMS to perform AWG. Agencies should refer such debts prior to the 180-day delinquency threshold.

**Comment**

While SSA intends to establish its own AWG program, our program will not preclude us from using AWG for cases referred to FMS under the cross-servicing program.

**Technical Comment**

In the report (page 16), GAO suggests that SSA's plan needed to provide more detailed information on its implementation efforts for AWG. However, in testimony before Congress on October 10, 2001, GAO stated that SSA had provided a written implementation plan for AWG that addressed the major milestones that must be accomplished, as well as a PSA that outlines how the process works. We suggest that the report reflect the status as stated in the October testimony.

Attachment

See comment 1.

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## GAO Comments

1. Although SSA provided us copies of their written implementation plan and project scope agreement, we do not consider either document to be a comprehensive written AWG implementation plan. The one-page written implementation plan that was provided to us did not address (1) which debts would be subject to AWG, (2) which age categories of debts would be subject to AWG, and (3) what would be the minimum debt amount subject to AWG. Also, the plan did not clearly describe how and by whom hearings would be conducted or clearly indicate when SSA could fully implement AWG. Although SSA provided us its project scope agreement, it only documented the scope of software changes that are needed to implement AWG.

# Comments from the Small Business Administration

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

Mr. Gary T. Engel  
Director, Financial Management and Assurance  
U.S. General Accounting Office  
441 G Street NW, Room 5970  
Washington, DC 20548

JAN 25 2002

Dear Mr. Engel:

Administrator Barreto has asked me to respond to your fax of January 7, 2002, requesting comment on the U.S. General Accounting Office's (GAO) draft report on the Debt Collection Improvement Act, "Status of Selected Agencies' Implementation of Administrative Wage Garnishment."

The U.S. Small Business Administration (SBA) is committed to the full use of administrative wage garnishment (AWG) as an additional tool in the Agency's vigorous pursuit of delinquent debt. The Agency also plans to fully participate with the U.S. Department of the Treasury (Treasury) in the use of AWG through Treasury's handling of SBA's delinquent debt in cross-servicing. As you may be aware, SBA was one of the first Federal agencies to participate in the Treasury Offset Program (TOP) and cross-servicing. Currently, SBA has \$240 million of debt active in TOP and \$950 million active in cross-servicing. In addition, SBA has completed the sale of \$4.4 billion of loans through the Agency's Asset Sales Program.

In your draft report, it was mentioned that SBA did not specify what types of debt would be subject to AWG when the Agency began the use of this collection process. Please be advised that SBA intends to include all eligible debt in AWG, i.e., all business loans to individuals (including disaster business loans), disaster home loans and personal guarantors of business loans. Eligible business loans will include partnerships that have general partners directly obligated on the debt, along with sole proprietorships. SBA will initiate AWG in the near future, after the publication of final regulations setting forth debtors' due process rights and appeal procedures. In general, debt in excess of \$250 and over 180 days delinquent will be subject to AWG.

Your draft report recommends the implementation of AWG as a function of the Chief Financial Officer. At SBA, the debt collection function is coordinated by the Office of Capital Access. Therefore, your report should note that at SBA this function is overseen by the Associate Deputy Administrator for Capital Access.

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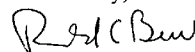
See comment 1.

Mr. Gary T. Engel

Page 2

If we can provide further information on SBA's implementation of AWG, please let us know. Our primary point of contact within SBA for this matter is Walter Intlekofer, who can be reached at 205-7543.

Sincerely,



Ronald E. Bew  
Associate Deputy Administrator  
for Capital Access

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GAO Comments

1. We have revised our report to reflect that responsibilities for addressing our recommendations at SBA reside with the associate deputy administrator for capital access.

# Comments from the Department of Housing and Urban Development

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department Of Housing And Urban Development  
Washington, D.C. 20410-0100

JAN 25 2002

OFFICE OF THE CHIEF FINANCIAL OFFICER

Mr. Gary T. Engel  
Director  
Financial Management and Assurance  
U.S. General Accounting Office  
441 G Street, NW, Room 5970  
Washington, DC 20548

Dear Mr. Engel:

Thank you for the opportunity to comment on the draft report entitled DEBT COLLECTION IMPROVEMENT ACT OF 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment (GAO-02-313).

The draft Report includes four recommendations. The recommendations and HUD's responses are as follows:

Prepare comprehensive written plans that clearly define, at a minimum, the types of debt that will be subject to AWG, the policies and procedures for administering AWG, and the process for conducting hearings. Some of the details that should be considered for inclusion in the plan are (1) whether the agency will conduct AWG in-house, at a debt collection center, or both; (2) the types of debts, if any, that will be sent to FMS prior to becoming 180 days delinquent; and (3) whether hearings will be conducted by the agency or contracted out.

HUD will revise its written AWG Implementation Plan to include all of the items and information recommended in the GAO Report.

The only specific criticism of HUD's plan indicated in the GAO draft Report is that "the plan did not make it clear whether AWG would be applicable to all other programs and related debts administered by the agency." The HUD plans submitted to the GAO were intended to apply to the Department as a whole. We believe that this confusion stems from HUD's decision to submit the AWG Survey response and AWG Implementation Plan prepared by HUD's Financial Operations Center. These were submitted as a Departmentwide response because the information presented was consistent with the Office of the Chief Financial Officer perspectives for all of HUD. HUD discussed this approach with the GAO contact person for the survey (Linda Sanders) who advised that it would not be a problem. HUD will revise its plan to prevent any continued misunderstanding.

Complete and finalize regulations for conducting AWG.

The AWG rule for HUD has been prepared by HUD's Office of General Counsel (OGC) and put into Departmental clearance on January 9, 2002. OGC expects that it will be published

See comment 1.



Appendix VI  
Comments from the Department of Housing  
and Urban Development

2

for comment in mid-February and that the final regulation will be in effect by the end of Fiscal Year 2002.

HUD continues to plan for AWG implementation as soon as the regulatory basis for AWG is completed. With this update, HUD recommends that Table 1 of the GAO Report be revised to reflect that HUD's expected implementation date for AWG is "Fiscal Year 2002."

Use AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors.

HUD agrees and will revise its AWG Implementation Plan to emphasize this strategy. After the effective date of HUD's AWG regulation, HUD will revise its demand letters to add AWG to the list of consequences if the debtor does not make voluntary payment. HUD will train its Debt Servicing Representatives about the AWG option.

HUD agrees with GAO's recommendation that FMS should incorporate the use of AWG in conjunction with other debt collection tools rather than consider AWG as a collection tool of "last resort." In developing its plan, HUD expected that effective use of AWG would be part of Treasury/FMS' plan for servicing debts that HUD refers to FMS for cross servicing. HUD expects that the debt collectors assigned to cross serviced debts will be encouraged to use the "threat" of AWG as a tool to obtain voluntary payment.

Expedite referrals of eligible debts to FMS for cross-servicing when relying on FMS to perform AWG. Agencies should refer such debts prior to the 180-day delinquency threshold when practicable.

HUD agrees and will include this precept in its revised AWG Implementation Plan.

HUD already refers new delinquent debts to FMS on a monthly basis before the 180 days delinquency threshold. Eligible delinquent debts will continue to be referred in the first monthly cycle after all due process requirements have been completed.

Again, I want to thank you for the opportunity to review and comment on this GAO report. If you have questions, please contact Margaret E. White, (202) 708-4474, or James M. Martin, (202) 708-0638, of my staff.

Sincerely,



Angela M. Antonelli

See comment 2.

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## GAO Comments

1. We understood that the survey and implementation plan submitted by HUD covered the agency as a whole. The intent of our comment was to address our concern that HUD's departmentwide implementation plan only specifies the use of AWG for certain debts referred to FMS for cross-servicing and did not make it clear whether AWG would be applicable to all other programs and related delinquent debts administered by the agency that are not referred to FMS for cross-servicing.
2. We have revised our report to reflect HUD's expected implementation date of fiscal year 2002.

# Comments from the Department of Health and Human Services

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

JAN 31 2002

Mr. Gary T. Engel  
Director, Financial Management  
and Assurance  
United States General  
Accounting Office  
Washington, D.C. 20548

Dear Mr. Engel:

Enclosed are the Department's comments on your draft report, "Debt Collection Improvement Act Of 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment." The comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

The Department also provided several technical comments directly to your staff.

The Department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Rehnquist".

Janet Rehnquist  
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the Department's response to this draft report in our capacity as the Department's designated focal point and coordinator for General Accounting Office reports. The OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

**COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE  
U.S. GENERAL ACCOUNTING OFFICE'S DRAFT REPORT, "DEBT COLLECTION  
IMPROVEMENT ACT OF 1996 – STATUS OF SELECTED AGENCIES'  
IMPLEMENTATION OF ADMINISTRATIVE WAGE GARNISHMENT"**

General Comments

Thank you for the opportunity to review the General Accounting Office's draft report: "Debt Collection Improvement Act of 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment (AWG)." The Department agrees with GAO's overall assessment that AWG when fully implemented by all Government Agencies will be a valuable tool to obtain payments from delinquent debtors. The Department appreciates the efforts of the GAO in preparing this report and fully intends to effectively incorporate AWG into our debt collection processes as GAO has outlined in its recommendations.

Technical Comments

We are providing the following comments on the draft report:

See comment 1.

- Page 10 & 16 - The draft indicates that HHS plans to implement AWG primarily in-house. HHS plans to implement AWG both in-house and through the Department of Treasury's Financial Management Service. We suggest that the report highlight that HHS will utilize AWG in-house and through the Department of Treasury's Financial Management Service.

See comment 2.

- Page 11 – Table 1 shows HHS' expected implementation date to be the end of 2001. We suggest that the date be changed to Fiscal Year 2002. HHS' proposed AWG Regulations were sent to OMB on December 6, 2001 for review prior to publication in the Federal Register. Once finalized, the Regulation will provide HHS the authority to commence the AWG process. This will take place in FY 2002.

See comment 3.

- Page 12 - The document indicates that debt referred for cross-servicing is/was not reported to Treasury separately as consumer or commercial debt. HHS transmits data elements to Treasury that identify a claim as consumer or commercial and within the various file formats originally issued by Treasury. We suggest that the GAO modify the report to identify the agencies that do not report the consumer or commercial debt separately.

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## GAO Comments

1. HHS suggested that the report highlight that it will utilize AWG in-house and through FMS. Although table 1 reflects that HHS will be using AWG both in-house and through FMS's cross-servicing program, we have revised the body of our report so that it more clearly reflects that HHS and certain other agencies will implement AWG in-house and to varying degrees through FMS's cross-servicing program.
2. HHS suggested that the date for its expected implementation be changed to fiscal year 2002. As of the completion of our fieldwork, HHS estimated its expected implementation date to be the end of calendar year 2001. We have revised our report to incorporate HHS's updated expected implementation date.
3. HHS stated that it transmits data elements to Treasury that identify a claim as consumer or commercial debt and suggested that we modify the report to identify the agencies that do not report the consumer or commercial debts separately. We understand that agencies transmit debts to Treasury for cross-servicing as consumer or commercial debts, however, debts are not separately reported in this manner on the Treasury Report on Receivables. We have revised our report to clarify that debts referred are not reported as consumer or commercial debts on the Treasury Report on Receivables.

# Comments from the Department of Veterans Affairs



THE SECRETARY OF VETERANS AFFAIRS

WASHINGTON  
January 25, 2002

Mr. Gary T. Engel  
Director, Financial Management and Assurance  
U. S. General Accounting Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Engel:

I am furnishing the Department of Veterans Affairs' response to your draft report, ***DEBT COLLECTION IMPROVEMENT ACT OF 1996: Status of Selected Agencies' Implementation of Administrative Wage Garnishment*** (GAO-02-313).

VA agrees with your conclusion that administrative wage garnishment has the potential to be a powerful tool for collecting delinquent federal debts. To this end, the Department of Veterans Affairs (VA) plans to implement procedures for referring delinquent debts to the Department of the Treasury to perform administrative wage garnishment (AWG) by the end of fiscal year 2002.

The enclosure provides further details on VA's plans for implementing the General Accounting Office's recommendations where practicable. I appreciate the opportunity to comment on your draft report.

Sincerely yours,

Handwritten signature of Anthony J. Principi in cursive script.  
Anthony J. Principi

Enclosure

Enclosure

DEPARTMENT OF VETERANS AFFAIRS' COMMENTS  
TO GAO DRAFT REPORT,  
***DEBT COLLECTION IMPROVEMENT ACT OF 1996: Status of Selected  
Agencies' Implementation of Administrative Wage Garnishment***  
(GAO-02-313)

To help ensure that agencies effectively incorporate AWG into their debt collection processes, GAO recommends that I:

- Prepare comprehensive written implementation plans that clearly define, at a minimum, the types of debt that will be subject to AWG, the policies and procedures for administering AWG, and the process for conducting hearings. Some of the details that should be considered for inclusion in the plan are (1) whether the agency will conduct AWG in-house, at a debt collection center, or both; (2) the types of debts, if any, that will be sent to FMS prior to becoming 180 days delinquent; and (3) whether hearings will be conducted by the agency or contracted out.

Concur - VA is developing a set of proposed debt collection regulations including one for AWG. In addition to these regulations, VA will develop hearing procedures, and refer as many eligible debts as possible to the Department of the Treasury cross-servicing program. At the end of FY 2001, VA referred 94 percent of our eligible delinquent debt to Treasury for cross servicing.

VA is planning to include in the regulations provisions to conduct hearings on our own cases at the Debt Management Center (DMC) in St. Paul, Minnesota. Treasury officials have been advised that the DMC, as a franchise fund entity, would consider conducting hearings for other Federal agencies.

- Complete and finalize regulations for conducting AWG.

Concur - This month, VA will start reviewing a package of proposed debt collection regulations, including the AWG regulation. VA intends to rely on Treasury to perform AWG as part of their cross-servicing program. Since Treasury already contracts with private collection agencies (PCAs) for collection purposes, the PCAs have the resources to seek out and verify employment sources and pursue AWG. That process would be a very costly and labor-intensive venture for VA to implement in-house.

Enclosure

DEPARTMENT OF VETERANS AFFAIRS' COMMENTS  
TO GAO DRAFT REPORT,  
***DEBT COLLECTION IMPROVEMENT ACT OF 1996: Status of Selected  
Agencies' Implementation of Administrative Wage Garnishment***  
(GAO-02-313)  
(Continued)

- **Use AWG in conjunction with other debt collection tools, when practicable, as leverage to obtain payments from delinquent debtors.**

Concur – GAO's draft report cites testimony by debt collection experts that the mere threat of AWG is often enough to motivate repayment. VA refers debts to Treasury for cross servicing. VA supports Treasury's use of all available tools including AWG as part of their cross-servicing efforts. As Treasury will be the collectors, it is appropriate for Treasury to communicate with debtors regarding what collection tools they will use.

- **Expedite referrals of eligible debts to FMS for cross-servicing when relying on FMS to perform AWG. Agencies should refer such debts prior to the 180-day delinquency threshold when practicable.**

Concur – While VA agrees that expediting referrals of eligible debts to FMS for cross-servicing would ultimately hasten the government's collection efforts, such action is not practical in VA. VA has a 180-day timeframe for due process for those debts related to benefits or services under the jurisdiction of the DMC.



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## Public Affairs

Jeff Nelligan, Managing Director, [NelliganJ@gao.gov](mailto:NelliganJ@gao.gov) (202) 512-4800  
U.S. General Accounting Office, 441 G. Street NW, Room 7149,  
Washington, D.C. 20548

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